

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**GILBERT JAMES,**

**Plaintiff,**

**v.**

**Civil Action No. 3:11cv00221**

**ENCORE CAPITAL GROUP, *et al.*,**

**Defendants.**

**SUPPLEMENTAL STATEMENT RESPECTING  
CONSENT TO MAGISTRATE JURISDICTION**

Defendants, Encore Capital Group, Inc., Midland Funding, LLC, and Midland Credit Management, Inc. (collectively, “the Midland Defendants”), by counsel, hereby supplement their Notice of Statement Respecting Consent to Magistrate Jurisdiction and state as follows:

1. By Order dated June 30, 2011 [Docket No. 20], the Court directed counsel for the Midland Defendants to: (a) confer with Midland and with counsel for the other parties to determine whether all parties will consent to the assignment of this case to a Magistrate Judge as the presiding officer for this case; and (b) file a statement of their position regarding their consent to proceed before a Magistrate Judge in this action.

2. The Court’s June 30, 2011 Order in this case made no mention of the case of *Kathy Adkins, et al. v. Encore Capital Group, Inc.*, Civil Action No. 3:11cv335, pending in this Court that is assigned to the Honorable James R. Spencer. The Court’s June 30, 2011 Order in this case did not direct counsel for the Midland Defendants to: (a) confer with Midland and with counsel for the other parties to determine whether all parties will consent to the assignment of the *Adkins* case to a Magistrate Judge as the presiding officer for this case; or (b) file a statement of their position regarding their consent to proceed before a Magistrate Judge in the *Adkins* case.

3. As directed by the Court's June 30, 2011 Order, on July 7, 2011, the Midland Defendants filed their Notice of Statement Respecting Consent providing notice that: (a) counsel for Midland has conferred with Midland and with counsel for the other parties to determine whether all parties will consent to the assignment of the *James* case to a Magistrate Judge as the presiding judicial officer for this case; and (b) the Midland Defendants give their consent to proceed before a Magistrate Judge in the *James* case. See Docket No. 23.

4. By email dated July 7, 2011, counsel for Plaintiff asked counsel for the Midland Defendants whether the Midland Defendants also would consent to the jurisdiction of a Magistrate Judge in the *Adkins* case with it being assigned to the same Magistrate Judge as in the *James* case.

5. Counsel for the Midland Defendants and counsel for Plaintiff had numerous email exchanges and communications between July 7-14, 2011, regarding the position of the Midland Defendants' consenting to the jurisdiction of a Magistrate Judge in the *Adkins* case and its assignment to the same Magistrate Judge appointed in the *James* case. See Exhibits 1-4 attached hereto.

6. Notwithstanding the fact that counsel for the Midland Defendants already had complied with the Court's June 30, 2011 Order, at the request of Plaintiff's counsel, prior to July 15, 2011, counsel for the Midland Defendants informed counsel for Plaintiff that the Midland Defendants give their consent for the *Adkins* case to proceed before any Magistrate Judge in the Richmond, Alexandria, Newport News or Norfolk Divisions of this Court and be consolidated with the *James* case for handling - provided that the Honorable M. Hannah Lauck is not the assigned Magistrate Judge since Magistrate Judge Lauck was the settlement judge in the related case of *Ann Rubio v. Midland Credit Management, Inc., et al.*, Civil Action No. 3:10cv-464-

HEH, where she presumably obtained confidential information from the Midland Defendants and gained substantive experience with the Midland Defendants about the allegations raised in this case. Counsel for the Midland Defendants requested that their position be communicated to the Court in counsel for Plaintiff's July 15, 2011 notice with the Court.

7. On July 15, 2011, Plaintiff filed a Supplemental Position Statement Regarding Consent to Magistrate Jurisdiction [Docket No. 28], which did not fully or accurately communicate the position of the Midland Defendants.

8. Accordingly, the Midland Defendants file this Supplement Statement Respecting Consent to Magistrate Jurisdiction to fully and accurately state its position, which is described in paragraph 6 above.

9. Counsel for the Midland Defendants hereby certify that they have not attempted to use this process in any way as a means to forum or judge shop, an accusation that is not only ill-founded but also ignores a reasonable concern held by the Midland Defendants based upon their good faith and voluntary participation in a settlement process in the *Rubio* case.

10. Rather than wasting the Court's time by providing a detailed background of all of the communications between counsel for Plaintiff and the Midland Defendants on this issue noted above, the Midland Defendants attach hereto the respective emails as Exhibits 1-4 should the Court need or desire to review them.

**ENCORE CAPITAL GROUP, INC.,  
MIDLAND FUNDING, LLC and  
MIDLAND CREDIT MANAGEMENT, INC.**

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 18th day of July 2011, I filed a true and correct copy of the foregoing on the Court's Electronic Case Filing system, which will send a notice of electronic filing to:

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